

THE FLORIDA HOMESTEAD GUIDE

Understanding and Protecting Your Most Valuable Asset

A Special Resource for Wakulla County Residents



Prepared exclusively by:

WAKULLA LEGACY ESTATE PLANNING

A Division of Gellis Law, PLLC

Sean Gellis, Esq. Estate Planning Attorney

Contact Information:

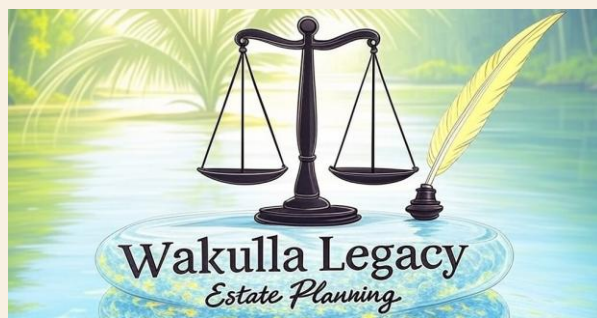
Phone: 850-329-0186

Email: seangellis@wakullalegacy.com

Website: www.wakullalegacy.com

This guide explains Florida's unique homestead protections and restrictions in plain language, helping Wakulla County residents understand how these laws affect their property during lifetime and after passing.

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The Florida Homestead Guide

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A special resource for Wakulla County residents from Wakulla Legacy Estate Planning

Introduction

As a Wakulla County homeowner, your property is likely your most valuable asset—both financially and emotionally. Florida's unique homestead laws provide powerful protections for your home, but they also create specific restrictions that can have significant consequences for your estate plan.



This guide explains Florida's homestead provisions in straightforward terms, helping you understand how these laws affect your property during your lifetime and after your passing. Whether you own a waterfront property in Shell Point, a family home in

Crawfordville, or acreage in Sopchoppy, these provisions apply to you and require careful consideration in your estate planning.

What Qualifies as Homestead Property?

In Florida, homestead property is your primary residence on which you have a legal or equitable interest and where you maintain your permanent home. Specifically:

- **Location:** The property must be located in Florida
- **Ownership:** You must have ownership interest in the property
- **Residency:** It must be your permanent residence or the residence of your legal dependent
- **Size Limitations:**
 - Up to half an acre within a municipality (city limits)
 - Up to 160 acres in unincorporated areas (like many parts of Wakulla County)

Florida homestead status is not automatic—you must apply for it through your county property appraiser's office. For Wakulla County residents, this application is available at the Wakulla County Property Appraiser's Office at 3056 Crawfordville Highway.

Three Major Benefits of Florida Homestead Status



1. Tax Benefits

Property Tax Exemption

- Exempts up to \$50,000 of your home's assessed value from property taxes
- First \$25,000 applies to all property taxes
- Additional \$25,000 applies to non-school taxes for homes valued over \$50,000

Save Our Homes Cap

- Limits annual increases in assessed value to 3% or the Consumer Price Index, whichever is lower
- Can result in significant tax savings over time, especially in areas with rapidly appreciating property values

Portability

- Allows you to transfer some or all of your Save Our Homes benefit (up to \$500,000) to a new homestead property
- Must establish new homestead within 3 years of relinquishing previous homestead

Additional Exemptions

- Seniors (65+) who meet income requirements may qualify for additional exemptions
- Disabled persons and veterans may qualify for additional exemptions

2. Asset Protection Benefits

Creditor Protection

- Generally protects your home from forced sale by creditors
- One of the strongest creditor protections in the United States
- No dollar limit on the protection (unlike many other states)

Exceptions to Protection:

- Mortgage holders (the bank that financed your home)
- Property tax obligations
- Mechanics' liens for work performed on the property
- Federal tax liens
- Judgments for alimony or child support

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This strong creditor protection is why many people move to Florida—particularly retirees concerned about healthcare costs or business owners seeking asset protection.

3. Surviving Spouse and Minor Child Protection

Florida's constitution provides special protections for surviving spouses and minor children:

- If the homestead owner dies with a surviving spouse or minor child, restrictions apply to how the property can be devised (transferred) by will or trust
- These restrictions ensure the family home remains available to the surviving family members
- In some cases, these provisions can override contrary instructions in your will

Homestead Restrictions on Transfers at Death

This is where Florida homestead law becomes particularly complex and why proper estate planning is essential.



If You Have a Spouse or Minor Child

If you are married with no minor children:

- You cannot devise (give away by will) your homestead if you have a surviving spouse, unless your spouse has validly waived their homestead rights
- Your spouse will receive a life estate in the property (right to live there for life)
- The remainder interest will go to your lineal descendants (children, grandchildren)
- Alternatively, your spouse can elect to take a 50% tenant-in-common interest instead of the life estate

If you have minor children:

- The property must pass to your surviving spouse and minor children
- You cannot freely devise the property in your will

If You Have No Spouse or Minor Child

- You are free to devise your homestead property to anyone
- No restrictions apply to transfers by will or trust

Common Homestead Planning Mistakes

1. **Attempting to devise homestead property contrary to restrictions**
 - If your will leaves your home to someone other than your spouse when you have a surviving spouse, this provision will be invalid
2. **Leaving homestead to multiple adult children as tenants in common**
 - While legal, this can create practical problems if siblings disagree about using or selling the property
3. **Failing to plan for homestead at all**
 - Without proper planning, default rules apply, which may not align with your wishes

Homestead Planning Strategies for Wakulla Residents

For Married Couples

Spousal Waiver of Homestead Rights

- Spouses can waive homestead rights in a valid prenuptial or postnuptial agreement
- Must be a knowing, intelligent, and voluntary waiver
- Requires strict compliance with formalities
- Allows more flexibility in estate planning
- Should only be done with careful legal guidance



Enhanced Life Estate Deed (Lady Bird Deed)

- Allows homeowner to retain full control during lifetime
- Property transfers automatically at death without probate
- Can be useful in certain marital situations
- Maintains homestead tax benefits during lifetime

Transfer to a Joint Trust

- Can provide for orderly management of homestead
- Must be carefully structured to maintain homestead protections
- Allows coordinated planning for married couples

For Single Individuals or Widow(er)s

Lady Bird Deed

- Particularly valuable for single homeowners
- Avoids probate for the property
- Maintains control during lifetime, including right to sell
- Preserves homestead tax exemptions
- Can simplify inheritance for your children

Traditional Life Estate

- Gives someone else a remainder interest while you retain the right to live in the property
- Limits your control compared to a Lady Bird deed
- May have Medicaid planning applications in some cases

Single-Person Trust

- Can hold homestead property if properly structured
- Provides continuity of management if you become incapacitated
- Must comply with specific requirements to maintain homestead status

Homestead and Long-Term Care Planning

For many Wakulla seniors, protecting their home while qualifying for Medicaid long-term care benefits is a major concern.

Medicaid and Your Home

- Primary residence with equity up to \$603,000 (2021 figure, adjusts annually) is generally an exempt asset for Medicaid eligibility
- However, Medicaid may place a lien on the home after death during estate recovery

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- Strategic planning can protect the home from estate recovery in many cases



Using Lady Bird Deeds in Medicaid Planning

- Can help avoid estate recovery
- Not considered a transfer that triggers a penalty period if done correctly
- Maintains control during lifetime
- Should be coordinated with overall Medicaid planning strategy

Five-Year Lookback Period

- Most transfers of assets trigger a five-year lookback period for Medicaid eligibility
- Lady Bird deeds generally don't trigger this penalty period
- Timing is critical in Medicaid planning

Homestead in Probate Administration

When a Florida homestead owner dies, special rules apply to the property during probate:

Homestead Determination

- Court may be asked to determine homestead status

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- Affects creditor protection and distribution rights
- Can significantly impact how the estate is administered

Exempt from Creditors

- Homestead property passes to heirs free of most creditor claims against the estate
- One of few assets with this level of protection in probate

Taxes During Administration

- Property tax exemptions may continue during administration if heirs qualify
- Maintaining these exemptions requires proper steps

Practical Steps for Wakulla Homeowners



1. Confirm Your Homestead Status

- Verify with Wakulla County Property Appraiser that you've filed for homestead exemption
- Ensure you're receiving all exemptions you qualify for

2. Review Your Current Estate Plan

- Check if your will or trust accounts for Florida homestead restrictions

- Ensure your plan reflects current law and your current wishes

3. Consider Your Family Situation

- Married? Special rules apply
- Minor children? Additional restrictions exist
- Blended family? Careful planning is essential

4. Explore Enhanced Planning Options

- Lady Bird deed
- Trust planning
- Other advanced strategies

5. Coordinate All Property Ownership

- Ensure consistency between deed, estate plan, and homestead status
- Review how property is titled (individual name, trust, tenancy by entirety, etc.)

Conclusion

Florida's homestead provisions offer tremendous benefits but also create planning challenges for Wakulla County residents. With proper understanding and strategic planning, you can maximize protections for your home while ensuring it passes according to your wishes.



As your neighbor and local attorney, I'm committed to helping Wakulla County residents navigate these complex provisions and create plans that protect what matters most. Remember that homestead laws change periodically through legislation and court decisions, making periodic review of your estate plan essential.

About the Author

Sean Gellis is the founding attorney of Wakulla Legacy, a division of Gellis Law, PLLC focused exclusively on serving the estate planning needs of Wakulla County residents. He brings over a decade of legal experience to help his neighbors protect their most valuable assets.



Contact Information

Wakulla Legacy Estate Planning

Phone: 850-326-0186

Email: seangellis@wakullalegacy.com

Website: www.WakullaLegacy.com

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